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Message Text

CONFIDENTIAL

PAGE 01 MANAGU 00428 012123Z

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ACTION ARA-20

INFO OCT-01 ISO-00 SSO-00 AID-20 IGA-02 L-03 SS-20 NSC-10

JUSE-00 H-03 CIAE-00 INR-10 NSAE-00 RSC-01 DRC-01

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O 012030Z FEB 74
FM AMEMBASSY MANAGUA
TO SECSTATE WASHDC IMMEDIATE 3395

C O N F I D E N T I A L MANAGUA 0428

E. O. 11652: GDS
TAGS: EAID NU
SUBJECT: HEARINGS ON SUPPLEMENTARY AID BILL

REF: STATE 019470

THE FOLLOWING IS FACTUAL INFORMATION AVAILABLE TO THE EMBASSY ON THE SUBJECTS RAISED PARAS 2 AND 3 OF REFTEL:

1. IMPRISONMENT WITHOUT TRIAL--PERSONS MAY BE HELD WITHOUT TRIAL IN NICARAGUA UNDER THE FOLLOWING PROCEDURES:

A. DETENTION FOR 24 HOURS FOR INVESTIGATION AFTER WHICH THE PERSON MUST BE EITHER CHARGED OR RELEASED.

B. DETENTION FOR UP TO 10 DAYS FOR INVESTIGATION UNDER SPECIAL POWERS GRANTED TO THE EXECUTIVE. THIS AUTHORITY IS ALMOST EXCLUSIVELY USED IN CASES INVOLVING NATIONAL SECURITY AND USUALLY ENTAILS EXTENSIVE INTERROGATION. THE DETAINING AUTHORITY IS NOT THE POLICE BUT THE OFFICE OF NATIONAL SECURITY.

C. IMPRISONMENT FOR UP TO 6 MONTHS AFTER A SUMMARY HEARING BEFORE AN OFFICIAL OF THE EXECUTIVE BRANCH (JUEZ DE POLICIA). THIS EXECUTIVE, AS DISTINCT FROM JUDICIAL PROCEDURE, IS EMPLOYED FOR COMMON MINOR OFFENSES (FALTAS) SUCH AS DRUNKENESS OR VAGRANCY BUT IS ALSO USED TO PUNISH PERSONS PARTICIPATING IN ACTIVITIES SUCH
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 MANAGU 00428 012123Z

AS PROTEST DEMONSTRATIONS, STRIKES AND DISTRIBUTION OF PROPAGANDA.

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

HOWEVER, DEMONSTRATORS AND PERSONS IMPRISONED AS A RESULT OF LABOR DISPUTES ARE USUALLY RELEASED SHORTLY AFTER THE IMMEDIATE ISSUE UNDER CONTENTION IS RESOLVED. THE SENTENCE CAN BE APPEALED TO THE MINISTER OF GOVERNMENT WHO CAN REMIT, REVOKE OR CONFIRM IT, IF HE WISHES. THE MINISTER'S DECISION CAN THEN BE APPEALED TO THE COURTS. IN ACTUAL PRACTICE SUCH APPEALS ARE RARE BECAUSE THE SENTENCE HAS USUALLY BEEN SERVED BEFORE THE MINISTER RENDERS A DECISION.

D. IMPRISONMENT FOR UP TO 2 YEARS AFTER A SUMMARY HEARING BEFORE A JUDGE OF THE CRIMINAL COURT. THIS PROCEDURE WAS PROVIDED FOR IN JANUARY 17, 1974 REVISION OF THE PENAL CODE ABOUT WHICH LITTLE IS KNOWN BECAUSE IT HAS NOT YET ENTERED INTO EFFECT. SOURCES IN THE LEGAL PROFESSION BELIEVE THE PROCESS WILL ALLOW FOR REPRESENTA-

TION BY COUNSEL AND PRESENTATION OF A DEFENSE AND SUBSEQUENT APPEAL TO A HIGHER COURT IN THE JUDICIAL SYSTEM. THIS PROCEDURE WILL BE USED FOR MORE SERIOUS OFFENSES (DELITOS). HOWEVER, UNDER THE NEW PENAL CODE, ACTIVITIES SUCH AS PROPAGATING DOCTRINES AND IDEAS CLEARLY CONTRARY TO THE MORALITY AND DEMOCRATIC BASES OF THE STATE AND PUBLIC ORDER AND ENCOURAGING ILLEGAL STRIKES ARE CLASSIFIED AS DELITOS.

2. PRACTICE OF IMMEDIATE REARREST FOLLOWING COMPLETION OF LEGALLY IMPOSED SENTENCE--THIS DEVICE HAS BEEN USED SPARINGLY IN THE PAST, USUALLY AGAINST PERSONS CONSIDERED TO BE PARTICULARLY DANGEROUS OR OFFENSIVE TO THE STATE. IN SUCH INSTANCES, THE PERSON IS REARRESTED AND CHARGED WITH ANOTHER OFFENSE, USUALLY STEMMING FROM THE ACTION FOR WHICH HE WAS ORIGINALLY IMPRISONED. FOR EXAMPLE, A PERSON PARTICIPATING IN A DEMONSTRATION WOULD SERVE SIX MONTHS FOR DISTURBING PUBLIC ORDER, AND UPON RELEASE WOULD BE IMMEDIATELY ARRESTED AND SENTENCED FOR DISTRIBUTING LEAFLETS WITHOUT A PERMIT ON THE SAME OCCASION. AN INDIVIDUAL MAY NOT HOWEVER BE REARRESTED AND SENTENCED FOR THE SAME CRIME. THE PROCEDURE

NORMALLY USED IS THE IMPRISONMENT FOR UP TO SIX MONTHS DESCRIBED IN PARA 1C ABOVE. ON RARE OCCASIONS, PERSONS DETAINED UNDER THE 10 DAYS PROCEDURE DESCRIBED IN 1B ARE REDETAINED ON NEW GROUNDS WHEN THIS TIME LIMIT EXPIRES.

CONFIDENTIAL

3. "POLITICAL PRISONERS"--THERE ARE CURRENTLY APPROXIMATELY 25 PRISONERS IN NICARAGUA WHO ARE CONSIDERED "POLITICAL" BY SOME BECAUSE THEY WERE ALLEGEDLY ACTING ON BEHALF OF A POLITICAL ORGANI-ZTION, SUCH AS THE LEFTIST-TERRORIST SANDINIST LIBERATION FRONT (FSLN), WHEN THEY COMMITTED THE ACTIONS FOR WHICH THEY HAVE BEEN IMPRISONED. THIS CONTENTION IS REFUTED BY THE GON WHICH POINTS TO THE FACT THAT THE ACTS COMMITTED WERE COMMON CRIMES (SUCH AS ROBBERY, ASSAULT OR KIDNAPPING), THE CONVICTIONS RESULTED FROM REGULAR JURY TRIALS WITH FULL RIGHTS OF DEFENSE AND APPEAL AND THE

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

SENTENCES ARE THOSE PRESCRIBED BY THE LAW. THE EMBASSY DOES NOT BELIEVE THAT THESE INDIVIDUALS MAY LEGITIMATELY BE CLASSIFIED AS "POLITICAL" PRISONERS. THE ONLY OTHER PRISONERS ALLEGED TO BE "POLITICAL" DURING THE PAST FEW YEAR ARE EFRAIM NORTHWALTON AND FRANCISCO RAMIREZ, WHOSE CASES WERE DESCRIBED IN MANAGUA 184, AND BABRIEL ALBUERNE FERNANDEZ, THE STATELESS CUBAN EXILE MYSTERIOUSLY HELD WITHOUT
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Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

Declassified/Released US Department of State EO Systematic Review 30 JUN 2005

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